

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Peter J. & Jeanne A. Pauly,
Petitioners-Appellants,

v.

Jackson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-49-0648
Parcel No. 010829127024000

On March 4, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Peter and Jeanne Pauly were self-represented and requested their appeal proceed without a hearing. County Attorney Sara Davenport represented the Jackson County Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

The Paulys are owners of property located at 22830 417th Avenue, Bellevue, Iowa. The Paulys' property was originally identified with two separate parcel numbers,¹ and were classified residential on the January 1, 2012, assessment. The total combined assessment for the two parcels was \$391,600. This was an increase from the previous year's assessment. They protested both of these parcels to the Board of Review. They claimed the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1) and the property was assessed for more than authorized by law under section 441.37(1)(a)(2). They also asserted there was

¹ The original parcels numbers were 01-08-29-127-014 and 01-08-28-127-011. They were combined into a new parcel number 01-08-29-127-024.

an error in the assessment under section 441.37(1)(a)(4); however, this claim essentially reasserted their belief that the subject property was over-assessed. The Board of Review ordered the two parcels be combined into one new parcel and reduced the total assessment to \$334,800, representing \$164,600 in land value and \$170,200 in dwelling value.

The Paulys then appealed to this Board reasserting their claims. They now assert the property's correct total value is \$307,600.

According to the property record card, Pauly's property is a split-level, frame home built in 1979. It has 1535 square feet of above-grade living area; a 1267 square-foot basement with 925 square-feet of finish; several decks, porches, and patios; and 515 square-foot, attached garage. It also has an 1800 square foot steel utility building. The subject site is 1.117-acres and has frontage on the Mississippi River.

The Paulys assert their property's land assessment is inequitable as compared to their neighbor. On their appeal to this Board, they assert the correct value of the land should be \$137,400.

The properties Paulys submitted on their Board of Review petition are as follows:

Owner	Address	Land AV	Site Size	River Frontage
Strathman	22828 417th Ave	\$137,400	1.22	288'
Ehrler	33917 345th Avenue	\$69,500	1.3	
Bragg	23130 417th Avenue	\$119,000		
Rivervue LLC	22914 417th Avenue	\$129,100	0.54	162'
Digman	23270 417th Avenue	\$162,400		240'

The petition lacks specific information on some of the properties, and based on the record some of the data Paulys listed may be incorrect. The Paulys did not provide any sale prices or market values of these properties. Without this information, we are unable to develop a sale ratio analysis. Additionally, the Paulys have shown any evidence that the assessor valued their property using different methods.

The Paulys contend the Strathman property immediately north of theirs is “larger yet appraised for \$27,200 less.” The property record card for the Strathman property indicates it is a 1.217-acre site with a \$137,400, assessed land value; compared to the Pauly’s site of 1.117-acres, which has an assessed land value of \$164,600. However, the property record cards also show the Strathman property has 228.95 effective front feet (EFF) compared to the subject site having 249.37 EFF. The property record cards identify both properties were valued on the EFF method with a unit price of \$1200. The Paulys’ property also received 45% “other” obsolescence and the Strathman property received 50% “other” obsolescence,² which reduced the land values. Both properties were valued in the same manner and there is no evidence of inequity.

The Board of Review asserts the Paulys’ property is equitably assessed. Its written statement indicates all properties in the subject’s subdivision have been assessed using the same \$1200 per EFF unit value. It additionally explains how obsolescence adjustments were made to some properties. The Board of Review also provided sales of three riverfront properties and one non-riverfront property it asserts supports the assessment of the subject property. The information is summarized in the following chart.

Owner	Sales Price (SP)	Date of Sale	Land Value	Eff Front Foot (EFF)	SP/EFF
Rivervue	\$265,000	March-07	\$156,600	153.69	\$1,019
Bragg	\$200,000	December-08	\$120,800	124.00	\$974
Spiegel	\$325,000	June-09	\$325,000	300.00	\$1,083
Krogman	\$300,000	August-12	\$150,200	186.03	\$807
Average SP/EFF					\$971

The Board of Review determined the average sale price per effective front foot of the land only is \$971 (rounded). This figure, however, includes the sale of the Krogman property, which does not

² Obsolescence adjustments were given proportionately to lots that are in excess of 80 front feet.

have direct Mississippi River frontage. The Krogman's lack of river frontage also explains why that property sets the lower end of the range of values.

It asserts that this market evidence, if applied to the Pauly property, would indicate a land value of \$242,138.³ It further asserts that the current assessed value of the Pauly property of \$164,600 / 249.37 EFF indicates a value per EFF of \$660; thus supporting that the Pauly property is not over-assessed. Ultimately, this analysis may be an oversimplification, but we recognize it is only provided to lend support to the assessment, particularly considering the riverfront sales are all dated.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or

³ \$971 X 249.37/EFF = \$242,138.

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. The Paulys did not provide sufficient evidence to support a claim of inequity under either the *Eagle* or *Maxwell* test. The Paulys’ neighboring property was assessed using a similar EFF value for the land. There was no additional information to show the subject property or comparables were otherwise inequitably assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275,

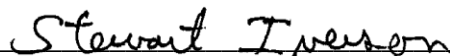
277 (Iowa 1995). The Paulys did not provide any evidence of the market value of their property through the use of sales.

THE APPEAL BOARD ORDERS the assessment of Peter and Jeanne Pauly's property located at 22830 417th Avenue, Bellevue, Iowa, of \$334,800 as of January 1, 2012, as set by the Jackson County Board of Review is affirmed.

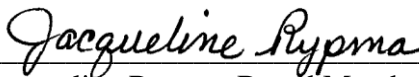
Dated this 1st day of April, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on April 2, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____